

R E M A R K S

Reconsideration of this application is respectfully requested.

Claims 1, 45 and 46 were rejected under 35 USC 103 as being obvious in view of the combination of Axelrod ("Total Internal Reflection Fluorescence at Biological Surfaces") and US 2003/0086163 ("Aono et al").

Aono et al potentially qualifies as a reference against the present application under 35 USC 102(a) based on its publication date of May 8, 2003, and under 35 USC 102(e) based on its U.S. filing date of November 1, 2002.

The publication date of Aono et al, however, is after the April 4, 2003, filing date of JP 2003-101346, the priority of which is claimed in the present application.

Submitted herewith is an accurate English translation of JP 2003-101346 to show that the claims are entitled to the claimed priority date of April 4, 2003.

It is respectfully submitted, therefore, that Aono et al only qualifies as a reference against the present application under 35 USC 102(e).

Aono et al was commonly owned with the present invention at the time that the present invention was made. Therefore, under 35 USC 103(c), Aono et al does not qualify as a reference against the present application for the purposes of 35 USC 103.

Accordingly, it is respectfully requested that the rejection under 35 USC 103 based on Aono et al be withdrawn.

If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

Respectfully submitted,

/Douglas Holtz/

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